

Exhibit 28

From: Cindy Cohn <cindy@eff.org>
To: "Elizabeth C. Pritzker" <ecp@girardgibbs.com>
Date: 12/9/2005 11:10:43 AM
Subject: Re: [SonyDRM-priv] settlement draft?

REDACTED

Sony has given permission. If you really contend that they haven't, please show me where or have one of their attorneys call me and tell me that themselves.

You said you wanted our comments and support. Even on your own terms (which of course we disagree with), refusing to show us the documents doesn't make any sense.

Making us come down to your offices? On what possible basis? As you know, we have a big team of attorneys as well, also spread across the country. We all need to see the documents in order to reasonably discuss them.

Cindy

On Dec 9, 2005, at 11:03 AM, Elizabeth C. Pritzker wrote:

>
> Currently, we do not have permission, from Sony or the members of
> Plaintiffs' Executive Committee, to release or circulate working
> settlement documents to the broader plaintiffs' group. We would be
> happy to have you come to our offices to review the documents and to
> go over the settlement terms with us. Dan and I are available for
> that purpose until about 3:30 today, if that works for you.
>
> Elizabeth C. Pritzker
> Girard Gibbs & De Bartolomeo LLP
> 601 California Street, Suite 1400
> San Francisco, CA 94108
> Phone: (415) 981-4800
> Fax: (415) 981-4846
> ecp@girardgibbs.com
> www.girardgibbs.com
>
> This message is intended only for the addressee, and may contain
> information that is privileged or confidential, and exempt from
> disclosure under applicable law. If you are not the intended recipient
> or agent of the intended recipient, you are hereby notified that any
> dissemination, distribution or copying of this communication is
> strictly prohibited; and you are asked to notify us immediately by
> return email, or by telephone at (415) 981-4800. Thank you.
>
> -----Original Message-----
> From: Cindy Cohn [mailto:cindy@eff.org]
> Sent: Friday, December 09, 2005 9:05 AM
> To: Elizabeth C. Pritzker
> Cc: 'Kamber Esq. Kamber'; 'Robert S. Green'; 'Kurt Opsahl'
> Subject: Re: settlement draft?
>
> Can you just please send us the draft? I don't think we need a call
> for this. We will obviously need to read it before we can say

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> anything.
>
> I really thought the problem here was Sony's approval. We had that by
> mid-afternoon yesterday.
>
> Cindy
>
> On Dec 9, 2005, at 8:24 AM, Elizabeth C. Pritzker wrote:
>
> > Cindy-
> >
> > Of course I hold you in the highest regard, and did not mean or
> intend
> > to suggest that you would jeopardize your fiduciary duties to class.
> > My email was to address a concern with what was discussed in our call
> > of EFF's public interest desire to advocate its positions in a public
> > way. As long as we agree to proceed on a confidential basis, there
> is
> > no issue here.
> >
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> >
> > - Sent from Blackberry Handheld -
> >
> > -----Original Message-----
> > From: Cindy Cohn <cindy@eff.org>
> > Date: Fri, 9 Dec 2005 15:48:00
> > To: "Elizabeth C. Pritzker" <ecp@girardgibbs.com>
> > Cc: "Robert S. Green" <rsg@classcounsel.com>, "Kamber Esq. Kamber"
> > <skamber@kolaw.com>, Kurt Opsahl <kurt@eff.org>
> > Subject: Re: settlement draft?
> >
> > I think your assertion of EFF's "stated intent" does not correctly
> > reflect what I said.
> >
> > But in any event, you have represented to us that you are
> negotiating a
> > settlement, including of our case, in which we have fiduciary duties
> as
> > well. We will follow the rules concerning the protection of the

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> > confidentiality of settlement negotiations.
> >
> > I don't think that you've ever known me to act any differently and I
> > have to say, I'm surprised by that implication.
> >
> > Cindy
> >
> > On Dec 8, 2005, at 11:05 PM, Elizabeth C. Pritzker wrote:
> >
> > > Hi Cindy -
> > >
> > > I am happy to go over the settlement terms and settlement documents
> > > with you and/or your team tomorrow or a convenient time over the
> > > weekend. We do have some concerns regarding EFF's stated intent to
> > > take matters of settlement to the press. Our fiduciary duties to
> > the
> > > class require your team's assurance that all terms of settlement
> > and
> > > the contents of these documents will remain confidential, before we
> > > can share these matters with you. Please let me know if that is
> > > acceptable at your end.
> > >
> > > Best,
> > >
> > > Elizabeth
> > >
> > > Elizabeth Pritzker
> > > Girard Gibbs & De Bartolomeo LLP
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> > >
> > > - Sent from Blackberry Handheld -
> > >
> > > -----Original Message-----
> > > From: Cindy Cohn
> > > Date: Fri, 9 Dec 2005 02:38:00
> > > To: "Kamber Esq. Kamber" , Elizabeth Pritzker ,
> > > "Elizabeth C. Pritzker"
> > > Cc: "Robert S. Green" , Kurt Opsahl
> > > Subject: settlement draft?
> > >
> > > Hi there,

> > >
> > > We were expecting the draft settlement papers, since SonyBMG gave
> > it's
> > > approval. Did you send them and we missed them?
> > >
> > > Cindy
> > >
> > > *****
> > > Cindy Cohn ---- Cindy@eff.org
> > > Legal Director ---- www.eff.org
> > > Electronic Frontier Foundation
> > > 454 Shotwell Street
> > > San Francisco, CA 94110
> > > (415) 436-9333 x108
> > > (415) 436-9993 (fax)
> > >
> > > *****
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SonyDRM-priv mailing list
SonyDRM-priv@eff.org
<https://falcon.eff.org/mailman/listinfo/sonydrm-priv>

CC: Daniel Girard <DCG@girardgibbs.com>, "Kamber Esq. Kamber"
<skamber@kolaw.com>